

PRESOLICITATION PHASE

1.2 Planning

During the presolicitation phase of the procurement, Government activity focuses primarily on ① the establishment of the need, ② the identification of funds, and ③ preliminary planning. During this phase, the user/client is working closely with the Program Manager.

Construction projects are complex and time-consuming undertakings requiring careful planning. To some degree, each construction project is unique. Rarely are two projects ever alike. Exhibit 1-2 illustrates some basic considerations in planning the design of a construction project.

Contract Specialist's Role

The contract specialist's participation in the early development stage of the project is usually at the request of the user/client and varies from agency to agency. This is the phase where the "seed of need" is planted by the user/client. As the seed grows, the Project Manager (PM) becomes involved with the user/client and through the guidance of the PM the seed eventually becomes a rough concept. It is at this stage that the need for an acquisition plan is recognized.

The contracting officer or the contract specialist will become involved by their participation in the acquisition planning team. If you are placed in this position, it is a good idea to seek out all of the background information available on the project. The more knowledgeable you are, the more you will be able to contribute.

How does acquisition planning differ from procurement planning?

FAR 7.101

Acquisition planning involves the entire process of completing a construction project from its inception to completion.

- Devised and executed by a team consisting of various individuals who represent those who are responsible for completing a quality project for the customer, or client, which is delivered on time, and at a fair and reasonable price.
- Plan must be signed and approved at higher levels.
- If events occur along the way that change the original plan, amendments to the plan must be issued so that approving officials are advised and free to question the changes.

The contract specialist brings contractual expertise and experience to the acquisition team.

Procurement planning encompasses only one phase of the acquisition cycle, addressing basically only the procurement phase.

- May or may not be accomplished by a team.
- Involves the formulation of strategy that is applied to the preso-

Establishing
Completion Dates

FAR 12.102(b)

During design of the project, factors which are normally taken into consideration by an A/E in establishing completion dates are based on the:

- nature and complexity of the project;
- construction seasons involved (Considering local conditions);
- client's desired/required completion date;
- availability of materials and lead time to obtain them, including equipment;
- capacity of a typical contractor to perform;
- use of multiple completion dates;
- need for environmental considerations; and
- past history on a similar project.

2.3 Identify Socio-Economic Programs

Although the Government's primary interest in procuring a facility is based on a least-cost basis by assuring that competitive bids are received, the Government has also implemented through the procurement process, certain policies to assure that various basic socio economic objectives are met.

Construction contracts are perhaps affected by socio-economic laws more than in any other type of contract.

- By nature, performance on construction contracts is accomplished primarily by small businesses.
- Davis Bacon Act and the Contract Work Hours Safety Standards Act require close monitoring, even to the subcontractor level of performance. No other Act requires weekly review of payrolls (except for the Certification requirement in compliance with the Copeland Act). Not only is the dollar amount paid for wage classifications watched closely, but other benefits as well.
- Equal Employment Opportunity is also monitored very closely.
- Strict adherence to Buy American - Construction Materials clause

Set-asides

The Contracting Officer must make a decision as to which social law takes precedent in the setting aside of a construction acquisition. Because of the differences in construction versus supply or service contracts, most decisions to be made regarding a construction contract revolve around three set-aside programs:

1. Small Business
2. SBA 8(a)
3. Small Business Competitiveness Demonstration Program.

Exhibit 2-8 provides a list of socio-economic programs which are associated with construction and shows the enormity and importance these social programs have on construction contracting.

GLOSSARY

LETTER CONTRACT <u>FAR 16.603-1</u>	A written preliminary contractual instrument that authorizes the contractor to begin immediately manufacturing supplies or performing services.
LEVEL OF EFFORT	The devotion of talent or capability to a predetermined level of activity, over a stated period of time, on the basis of a fixed-price or cost reimbursement pricing arrangement. Payment is usually based on effort expended rather than on results achieved.
LINE OF BALANCE	A technique used as a progress monitoring tool which is suitable for construction on projects which involve a substantial number of subcontract crews and is considered repetitive in the use of general trade crews, such as housing, pipe-lines, tank farms, or high rise buildings. Its use enables potential problem areas to be identified early.
LIQUIDATED DAMAGES <u>FAR 12.202</u>	A stipulated sum that constitutes fair compensation for late completion or abandonment by a party. In order to be enforceable, two conditions must first be met (1) the fixed amount must be a reasonable forecast of the costs incurred due to late completion; and (2) the harm caused by such delay must be very difficult to estimate accurately.
LOAN GUARANTEES <u>FAR 32.102(c)</u>	Guarantees made by Federal Reserve banks, on behalf of designated guaranteeing agencies, to enable contractors to obtain financing from private sources under contracts for the acquisition of supplies or services for the national defense.
LOSS OF EFFICIENCY	Used by contractors filing a claim for alleged loss of efficiency in performance in a delay situation due to causes beyond the contractor's control.
LOSS OF LEARNING	Loss encountered by a contractor in a delay situation forcing the contractor to retrain personnel in the tasks required for performance.
LUMP SUM CONTRACTING	A common term for contracting for construction in which the contractor agrees to carry out stipulated work in exchange for a fixed sum of money.
MAGNITUDE OF CONSTRUCTION <u>FAR 36.204</u>	An estimate of the magnitude of a construction project in terms of physical characteristics and estimated price ranges normally stated in general terms.
MAINTAINABILITY REVIEW	A review normally conducted by experienced public works or facility maintenance personnel for certain systems or collateral equipment to be purchased in conjunction with a construction project to ascertain cost and reliability of such items. The objective is to reduce future maintenance problems.
MAN-DAY	A unit of work performed by one person in one eight-hour or its equivalent.
MANHOUR ANALYSIS	A comparison of planned versus actual manning of the project used to determine work progress, productivity rates, etc.
MANUFACTURER'S CERTIFICATE OF CONFORMANCE OR COMPLIANCE	A certificate signed by an authorized manufacturer's official attesting that the material or equipment delivered to the construction site meets the specification requirements.